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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket FAR 2012-0080, Sequence 4]

**Federal Acquisition Regulation; Federal Acquisition Circular  
2005-59; Introduction**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Summary presentation of final and interim rules.

**SUMMARY:** This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005-59. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at <http://www.regulations.gov>.

**DATES:** For effective dates and comment dates see separate documents, which follow.

**FOR FURTHER INFORMATION CONTACT:** The analyst whose name appears in the table below in relation to each FAR case. Please cite FAC 2005-59 and the specific FAR case numbers. For information pertaining to status or publication

schedules, contact the Regulatory Secretariat at 202-501-4755.

**List of Rules in FAC 2005-59**

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
I	Prohibition on Contracting with Inverted Domestic Corporations	2012-013	Jackson
II	Free Trade Agreement—Colombia	2012-012	Davis
III	Revision of Cost Accounting Standards Threshold	2012-003	Chambers

**SUPPLEMENTARY INFORMATION:** Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subject set forth in the documents following these item summaries. FAC 2005-59 amends the FAR as specified below:

**Item I—Prohibition on Contracting with Inverted Domestic Corporations (FAR Case 2012-013) (Interim)**

This interim rule implements section 738 of Division C of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), which prohibits the award of contracts using Fiscal Year 2012 appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such an entity. This interim rule extends an existing prohibition that applied to use of Fiscal Years 2008 through 2010 funds. Contracting officers are prohibited from awarding contracts using appropriated

funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such entity, unless an exception applies. The exceptions are at FAR 9.108-2. This rule is not expected to have an effect on small business because this rule will only impact an offeror that is an inverted domestic corporation and wants to do business with the Government. Small business concerns are unlikely to have been incorporated in the United States and then reincorporated in a tax haven.

**Item II—Free Trade Agreement—Colombia (FAR Case 2012-012)**

This interim rule implements a new Free Trade Agreement with Colombia (see the United States—Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112-42) (19 U.S.C. 3805 note)).

This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Colombia. This interim rule is not expected to have a significant economic impact on a substantial number of small entities.

**Item III—Revision of Cost Accounting Standards Threshold (FAR Case 2012-003)**

This final rule revises the cost accounting standards (CAS) threshold in order to implement in the FAR a recent rule of the Cost Accounting Standards Board and statutory requirements. The threshold now equals the Truth in

Negotiations Act (TINA) threshold, currently \$700,000.

There is no impact on small businesses as they are exempt from CAS pursuant to 48 CFR 9903.201-1(b).

Dated: May 3, 2012

Laura Auletta,  
Director,  
Office of Governmentwide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Governmentwide Policy.

Federal Acquisition Circular (FAC) 2005-59 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-59 is effective [***insert date of publication in the Federal Register***], except for Item II which is effective May 15, 2012.

**Dated: May 3, 2012.**

**Richard Ginman,**  
Director, Defense Procurement  
and Acquisition Policy.

**Dated: May 2, 2012.**

**Joseph A. Neurauter,**  
Senior Procurement Executive/Deputy CAO,  
Office of Acquisition Policy,  
U.S. General Services Administration.

**Dated: May 3, 2012.**

**William P. McNally,**  
Assistant Administrator for Procurement,  
National Aeronautics and Space Administration.

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